

EXECUTIVE ORDER No.2005 – 23

STATE OF ENERGY EMERGENCY

WAIVER OF REGULATIONS RELATING TO MOTOR CARRIERS AND DRIVERS TRANSPORTING GASOLINE, DIESEL FUEL, JET FUEL, PROPANE, NATURAL GAS, COMPRESSED NATURAL GAS, AND ETHANOL

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the Governor;

WHEREAS, under Section 4 of 1982 PA 191, MCL 10.84, during a declared State of Energy Emergency the Governor may by executive order suspend a statute, order, rule of a state agency, or specific provision of a statute, order, or rule if strict compliance with the statute, order, rule, or a specific provision of the statute, order, or rule will prevent, hinder, or delay necessary action in coping with an energy emergency;

WHEREAS, based on the effects of Hurricane Katrina, Executive Order 2005-16 declared a State of Energy Emergency in this state beginning on August 31, 2005;

WHEREAS, because Hurricane Katrina has temporarily halted the off-shore production of petroleum products in the Gulf of Mexico and damaged storage facilities and transportation infrastructure throughout the Gulf Coast region, the effects of Hurricane Katrina are being felt throughout the United States;

WHEREAS, the United States Department of Transportation Federal Motor Carrier Safety Administration has declared that a regional transportation emergency continues to exist in the highway transportation of certain petroleum products in both the Eastern Region of the United States (Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virginia, and West Virginia) and the Southern Region of the United States (Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, New Mexico, Oklahoma, South Carolina, Tennessee, and Texas);

WHEREAS, as a result of a Revised Declaration of Regional Emergency, the Federal Motor Carrier Safety Administration, acting pursuant to 49 CFR 390.23, has exempted motor carriers and drivers transporting gasoline, diesel fuel, jet fuel, propane, natural gas, compressed natural gas, and ethanol to and from the Eastern Region and the Southern Region from 49 CFR Parts 390-399 to address emergency needs arising from the Hurricane Katrina disaster (such as fuel supply shortages). The exemption is effective from 1:00 p.m. EDT, September 14, 2005 until 11:59 p.m. EDT, October 5, 2005;

WHEREAS, the federal exemption for motor carriers or drivers extends outside of the Eastern Region or Southern Region of the United States to any portion of a trip that occurs outside of the Eastern or Southern Regions;

NOW, THEREFORE, I, JENNIFER M. GRANHOLM, Governor of the State of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

1. Motor carriers and drivers transporting gasoline, diesel fuel, jet fuel, propane, natural gas, compressed natural gas, and ethanol to and from the Eastern Region or the Southern Region of the United States to address emergency needs arising from the impact of Hurricane Katrina, such as fuel supply shortages, are exempt from compliance with any applicable state statute, order, or rule substantially similar to 49 CFR Parts 390-399. Any such provision of a state statute, order, or rule is suspended. The exemption and suspension under this Order is effective until 11:59 p.m. EDT, October 5, 2005.

2. No other petroleum products are covered by this Order.

3. Nothing in this Order shall be construed as an exemption from applicable controlled substances and alcohol use and testing requirements (49 CFR Part 382 and any similar state statute, order, or rule), the commercial driver's license requirements (49 CFR Part 383 and any similar state statute, order, or rule), the financial responsibility requirements (49 CFR Part 387 and any similar state statute, order, or rule), applicable size and weight requirements, or any portion of federal regulations not specifically identified.

4. Motor carriers or drivers currently subject to an out-of-service order are not eligible for the exemption and suspension until the out-of-service order expires or the conditions for rescission have been satisfied.

5. The Federal Motor Carrier Safety Administration has required that drivers for motor carriers operating under the Revised Declaration of Regional Emergency issued under federal regulations have a copy of the federal Revised Declaration of Regional Emergency in their possession. Copies of the two applicable federal revised declarations are attached to this Order.

6. The Motor Carrier Division of the Department of State Police shall coordinate state compliance with this Order.

This Order is effective until the earliest of any of the following:

a. A finding by the Governor that the State of Energy Emergency declared under Executive Order 2005-16 no longer exists.

b. Rescission of this Order.

c. 11:59 p.m. EDT, Wednesday, October 5, 2005.

This Order is effective upon filing.

Given under my hand and the Great Seal of the State of Michigan this 16th day of September in the year of our Lord, two thousand and five.

JENNIFER M. GRANHOLM
GOVERNOR

BY THE GOVERNOR:

SECRETARY OF STATE